

TRAFFICKING IN PERSONS ESPECIALLY ON
WOMEN AND CHILDREN IN NEPAL

National Report
Executive Summary
2006-2007



Office of the National Rapporteur on Trafficking in Women and Children (ONRT)
National Human Rights Commission (NHRC)
Harihar Bhawan, Pulchowk, Lalitpur, Nepal

Published by : National Human Rights Commission
Office of the National Rapporteur on Trafficking in
Women and Children
Harihar Bhawan, Pulchowk, Lalitpur
P.O. Box No. : 9182, Kathmandu, Nepal
Phone No. : 00977-1-5010015 Extn: 163, 164, 138
: 00977-1-5010016
: 00977-1-5010017
: 00977-1-5010018
E-mail : nhrc@nhrcnepal.org
Website : www.nhrcnepal.org

First Edition : 500 copies (May 2008)
Publication Support : Capacity Development of National Human Rights
Commission/UNDP
Printed in Nepal at : Shakya Offset Press (P) Ltd. Tel: 4260185

Foreword

Trafficking in persons is the worst form of exploitation of human being. It dehumanizes the trafficked person by reducing the subject into a slave like status. According to *Trafficking in Person (TIP)* report (US Government, 2006) about 8 million people are trafficked across national border annually. Approximately 80 percent of transnational victims are women and most of them are for commercial sexual exploitation. This figure is definitely alarming and need to be addressed with priority in policy, program and action by the world community through their concerted efforts and speedy justice.

Trafficking in persons has long been denounced by international community. From the time of banning of slave trade and declaring it unlawful in international law, a series of international instruments emerged to combat human trafficking. The human rights jurisprudence of modern times from the Universal Declaration of Human Rights 1948 and subsequent Covenants provided further support for legislating on this subject. With the acceptance of globalization and open market economy especially starting from 1990s, the expansion of global labour market has created an upward trend in foreign labor migration and also the increase in the incidence of trafficking of women and children for sex work and other purposes. This problem obviously necessitated new legislating strategies. Though specific and regional treaties, conventions and resolutions such as CEDAW ,CRC, UN Security Council Resolution 1325 and SAARC Convention 2002 in Combating Trafficking were concluded to meet the particular type of challenges, there are still severe deficiencies in providing administrative and technical infrastructure for their implementation.

The National Human Rights Commission (NHRC) has been keenly concerned with the problem of trafficking from the very beginning of its inception. Realizing the severity of the problem in our national

context, the NHRC has established the Office of the National Rapporteur on Trafficking in Women and Children (ONRT). The NHRC has also included the control and elimination of Trafficking and social integration of victims as a strategic objective in its draft Strategic Plan 2008-2010.

The National Report on Trafficking 2005 was the first Report in the situation of trafficking in Nepal. This Report 2006/07 is the second. The analytical presentation of the Report on the status of trafficking reveals that Nepal is not only country of origin but also the country of destination for neighboring countries. The Report has addressed that although opportunities of foreign employment have positive impact on the economy of the country to bring increasing remittance, it also has increased risk of vulnerability in trafficking. On the other hand, the monitoring of the GOs' and NGOs' initiatives on the implementation of national policy, plans and laws reveals that implementation needs to be made effective enough to deal with the challenges in combating trafficking in persons. Apparently, the way forward has identified areas on implementation interventions that need to be taken care with institutional responsibilities.

The report is based on the primary and secondary information collected from GOs, NGOs and media consultation, workshop, interviews and issue based researches. The report is the outcome of coordinated effort of all concerned partners working for combating trafficking. However, the ONRT takes the responsibility for information and statement made in the Report. I would like to extend my thanks to them for their cooperation and valuable input for the Report.

The Commissioners also deserve appreciation for their support and guidelines to finalize the Report. Thanks also goes to Mr. Bishal Khanal, the Secretary of the NHRC for his contribution to prepare this Report. Ms. Padma Mathema, the National Rapporteur on Trafficking has worked hard to bring this Report in this form. I duly acknowledge her effort in the preparation of this Report. Special thanks also goes to other staff of NHRC including the staff working in both regional and contact offices of the NHRC for providing their

inputs and support to prepare and finalize this report. In addition, thanks also goes to the Capacity Development Project of National Human Rights Commission (CDNHRC) for the financial and technical support extended by them to prepare the report. Dr. Govind Subedi, the consultant for preparing this Report also deserves thanks for preparing and finalizing the Draft Report, and for his hard work and analytical write up.

I hope, this Report will contribute as a valuable reference to the policy makers. Human rights organizations, civil society and experts working for combating trafficking with an objective to ensure the human rights of trafficked vulnerabilities would also be benefited from the knowledge contained in this Report. Furthermore, the Report is also expected to serve as an advocacy tool for the decision makers to prioritize the issue based concern on the areas of the human right at national and international level.

Kedar Nath Upadhyay
Chairperson
National Human Rights Commission

Few Words

Trafficking in persons, more specifically in women and children is very serious human rights problem in Nepal. The studies reveal that among others, the perpetrators often take advantage of poverty and ignorance among young and rural women to compel them to accept menace of trafficking. Available figures show that this menace has been increasing rapidly over the years. The National Human Rights Commission (NHRC) considers this offence as one of the worst form of human rights violations in contemporary Nepalese society. As an endeavor to ensure human rights of trafficking vulnerable and trafficking survivors, NHRC has taken up the issue strategically in its policies and plans. In order to address the issue of trafficking, NHRC has established the Office of the National Rapporteur on Trafficking in Women and Children (ONRT).

The Report of the year 2006-2007 presents overall situation of trafficking of women and children in the country with special focus on foreign labor employment and trafficking. Efforts have also been made to monitor the impact of initiatives taken in combating trafficking in persons, and recommendations for mitigation of the problem.

I commend Ms Padma Mathema, National Rapporteur on Trafficking, and her team for the accomplishment of this serious task. I would also like to extend my thanks to all those who have contributed in preparing this report. I believe that this report will be useful particularly for those working in the field of combating and mitigation of trafficking in human persons.

Bishal Khanal
Secretary
National Human Rights Commission

Preface

National Human Rights Commission, a constitutional body of Nepal, has the mandatory responsibility to protect and promote the human rights of people in Nepal for justice, equality and dignity. Since trafficking in persons deprives the victim from all forms of human rights and puts the victim in the slavery like situation, it is a serious violation of human right. The depth of the problems and challenges crosses international, regional and national boundaries.

Antidotal information on trafficking in persons especially of women and children in Nepal can be traced back even before the Rana regime. Trafficking in persons in Nepal is basically associated with patriarchal and feudal structure in the country. At the same time, the studies in the situation of trafficking especially on women and children show that the problem of trafficking has extended from rural to urban and from India to other countries in the context of social, political and economic development of Nepal,. However, due to its clandestine nature of the crime and lack of effective institutional reporting system, the updated situation of trafficking and impact in combating trafficking from policy, program and judicial efforts have been difficult to monitor and report.

The ONRT has published the first National Report on Trafficking in person especially in Women and Children in Nepal in 2005. The Report 2006/07 is the second Report in its effort.

The Report presents the general situation of trafficking in persons in Nepal with its changing dimension by magnitude, profile, route and mode of trafficking. The report deals with foreign labor migration in Nepal in the context of an emerging socio-economic scenario of development in the country and its nexus with trafficking vulnerability of women and men.

Since protection of trafficked survivors is the responsibility of the State, the report presents rescue, repatriation, rehabilitation as a policy issue in combating trafficking in persons. Following the monitoring on the initiatives of anti-trafficking activities of GoN, NGOs, INGOs and also of law enforcement, the report has found that effective implementation stands as the challenge in dealing with policies, plans and programs of anti trafficking activities. The report deals with role of media as contributor to advocate the policy makers to enhance general awareness to fight against trafficking. The Report draws the attention of the policy makers and other stakeholders for need of their commitment to fight against trafficking in persons.

The Report has been finalized under the policy direction of the Hon'ble Chairperson Mr. Kedar Nath Upadhyay. Other Hon'ble Commissioners have contributed to shape the report in this form with their valuable policy direction. We are highly grateful for their inputs and encouragement. And, I would like to thank Mr. Bishal Khanal, the Secretary of the NHRC for facilitating the operation and policy input for the Report.

Mr. Tek Tamrakar, National Program Manager of the Capacity Development of National Human Rights Commission (CDNHRC) project also deserves our thanks for his support to complete this report. Dr.Govind Subedi, the consultant for the report deserves special thanks for his hard work to prepare the report .We acknowledge his devotion to prepare this report. Thanks also goes to core committee members and members of the technical committee of ONRT for finalizing the report.

The participants from GOs, NGOs, INGOs and donor partners of different consultation meetings in Kathmandu, Butwal and Biratnagar deserve sincere thanks for their contribution to finalize the Report. Ministry of Women Child and Social Welfare deserves special thanks for their cooperation and support to prepare the report. Department of Labor and Employment Promotion, Department of Immigration, Office of the Attorney General, Women Police Cell, Central Child Welfare Board, Social Welfare Council also deserve thanks for their

contribution to prepare the report by providing data and information in the respective sectors. I would like to thank all concerned officials from the ministries, departments and offices for their input and information for the report.

Thanks also goes to all staff of the NHRC in Head Office and its Regional and Contact Offices for their contribution and feed back on consultation meetings to finalize the Report. Mr. Kamal Thapa Kshetri, Programme Officer and Mr. Suresh Malla, Promotion Officer of the ONRT deserves special thanks for their untiring work to facilitate, manage, coordinate activities and provide valuable inputs to prepare and finalize this report. Thanks also go to Mr. Sagar Shrestha, Administrative Assistant for his help in computer work and also to Ms. Radha Dahal, Office Assistant for her services. Finally, I would like to hearty thank Mr. Dinesh Narayan Suddhakar and Mr. Navin Chandra Gurung, Interpreters/Translators of the CDNHR for extending their generous support on editing this report.

I believe, the report will be of immense value to those working for combating trafficking in the country as well as to the international partners. This report will also serve as advocacy reference to policy makers, legislative body and general public. The efforts are made to minimize the errors at the most. Nevertheless, there is always a room for improvement. Comments and queries from the distinguished readers will support us to prepare the future report with perfection.

Padma Mathema
National Rapporteur
Office of National Rapporteur on Trafficking in Women and Children

Executive Summary

Human trafficking especially trafficking in women and children is an extreme form of human rights violation as it denies the fundamental rights of mobility, freedom, dignity and integrity of the people. Nepal has been basically an ‘origin’ country from the very beginning but the phenomenon of intra-country trafficking for sexual and labor exploitation has also been obvious nowadays. The Government of Nepal (GoN) has recognized human trafficking as a serious crime against humanity as well as the violation of human rights and made its commitments to combat trafficking with regulatory and policy interventions. For the effective implementation of the government plan of action against trafficking in persons, the GoN has been closely working in collaboration with national and international development partners.

The National Human Rights Commission (NHRC) was established in 2000 as a statutory body under Human Right Commission Act 1997, is upgraded as a constitutional body by the Interim Constitution of Nepal, 2007. It is mandated for the protection, promotion and effective enforcement of human rights in Nepal.

The NHRC has been actively working against the trafficking in persons since its beginning. The Commission has placed the elimination of trafficking as one of the eight strategic concerns of its Strategic Plan (2004-2008). The Strategic Objectives 4 and 5 were directly relevant for the control and prevention of trafficking in persons. The objective 4 states, ‘to help improve the legislative and regulatory mechanisms for control and cessation of domestic and dowry related violence against women and trafficking of women’. The objective 5 states, ‘to help improve legislative, monitoring and enforcing arrangements for the elimination of violence against children in the form of trafficking, abuse, exploitation and the use of children

in conflict. Similarly, the Strategic Plan 2008-10 (draft) of the NHRC has included the protection and promotion of the right of the trafficking vulnerable under the strategic objective: gender equality, empowerment and combating violence and discrimination’.

The Office of the National Rapporteur on Trafficking in Women and Children (ONRT) was established by a Memorandum of Understanding (MoU) between the Ministry of Women, Children and Social Welfare (MoWCSW) and the NHRC in 2002, and it is a part of the NHRC. The Commission has appointed the National Rapporteur on Trafficking under the direct supervision of the Chairperson of the Commission. The ONRT is mandated to monitor the incidence of trafficking; coordinate national, regional and international efforts to combat crime of trafficking; and generate high level commitment to the efforts aimed at improving the human rights situation of women and children. In order to fulfill its mandates, the ONRT has the responsibility of publishing the National Annual Report by critically analyzing the efforts to combat trafficking in Nepal.

The main aim of the Report is, therefore, to assess the initiatives and activities against trafficking in Nepal carried out by governmental organizations (GOs) and non-governmental organizations (NGOs) including constitutional bodies in the years of 2006/07. Guided by human rights perspective, this Report adopts the definition of trafficking as defined in the previous National Report 2005 in the Nepalese context. The definition is in line with the definition of *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000 Supplementing the Convention on Transnational Crime 2000 (Palermo Protocol)*. The National Report 2005 was the first Annual Report and, this is the second National Annual Report of *Trafficking in Persons Especially on Women and Children in Nepal*.

The Report uses both primary and secondary data. Primary data were generated through i) workshops/talk programs held with the representatives of GOs, NGOs and the media persons in Kathmandu, Butwal and Biratanagar; ii) individual interview with concerned GOs

and the Office of the Attorney General and the Supreme Court; iii) self-administered questionnaire for concerned NGOs and INGOs, iv) interview with media houses in Kathmandu; iv) interview with rehabilitation centers in Kathmandu and with the trafficking survivors in transit/rehabilitation centers; v) visits of border areas (Biratanagar Birgunj and Bhairahawa) and interview with the NGO personnel involved in interception. The secondary data were obtained from the relevant reports of different NGOs, INGOs, annual reports of the Office of the Attorney General and the Supreme Court, data records from Department of Labor and Employment Promotion (DoLEP), Interpol-Nepal Office and Department of Immigration.

On Situation of Trafficking

The Report deals with the situation of trafficking in Nepal; brings out the initiatives and activities against trafficking carried out by GOs, NGOs, INGOs and donor communities in the year of 2006-07; examines the linkages between foreign labor employment and trafficking; discusses the status of rescue, repatriation, rehabilitation, and reintegration (4Rs); deals with the need of a comprehensive policy from the human rights and gender perspectives; and discusses the role of media in combating trafficking. Further, the Report provides necessary suggestions and recommendations to combat trafficking effectively.

Findings on the situation of trafficking indicate that there is a lack of scientific data on the number of trafficked persons, place of origin and destination, and purpose of trafficking as trafficking involves the clandestine nature of operation. Lack of reporting and/or misreporting on the part of survivors and their families to the concerned authority is a problem in this regard. In addition, it is also due to the lack of an institutionalized system of generating data on trafficking.

The magnitude of trafficking figures available is often speculative and made with reference to brothel-based sex work; however, the recent data on trafficking for brothel-based sex work is not available either. In 2001, the International Labor Organization/International Program on Elimination of Child Labor (ILO/IPEC) estimated that

about 12,000 children under 18 years were trafficked annually to India for the purpose of sexual exploitation. Eastern Benjamin Trust (2007) estimated that about 600 children were trafficked for circus industry in different cities of India, mainly from Makwanpur and Bara districts. Likewise, the MoWCSW study shows that about 40,000 girls are found working in 1200 cabin and dance restaurants in Kathmandu valley and half of them are the victims of trafficking and sexual exploitation. The Women and Children Service Center (WCSC) reported that a total of 1,355 children under 18 years were missing from December 2006 to June 2007. The WCSC record has also indicated that average of 465 women was recorded missing each year in the Kathmandu valley during the period 1998/99 to 2006/07.

Besides these figures, the report found lack of proper data in the following nature of trafficking in persons i) trafficking of girls and women for non-brothel based sex work in India; ii) trafficking of children for labor exploitation in India (except circus); iii) trafficking of persons for organ transplantation; iv) trafficking of women and men in the Gulf region and other countries; and v) internal trafficking of children for labor and sexual exploitation.

Given the information available, the problem of trafficking has crossed the geographical regions and social groups in Nepal. Trafficking occurs through a multitude of routes; it takes place mostly in networks of traffickers from village or working places to border and border to the destination and it occurs for sexual exploitation, labor exploitation and entertainment and other purposes. Trafficking takes place in an interrelated web of causation from structural to immediate one. Besides structural causes of trafficking, there are other emerging causes such as; i) growth of carpet and other industries in the late 1980s; ii) the internal armed conflict during the 1996-2006; and iii) increasing foreign labor migration since the beginning of this century. Analyzing the media reports on foreign labor migration, a considerable number of trafficking cases exists in relation to foreign labor employment.

On Foreign Labor Migration and Trafficking

Foreign labor employment is one of the major sources of income for Nepali people. It contributes about 18 to 22 per cent to the Gross Domestic Product (GDP) of the country. On the other hand, unsafe foreign labor migration has resulted into exploitation and trafficking in persons. Major streams of foreign labor migration emerging are to: i) India, ii) Gulf region, iii) East and South East Asia, iii) Europe and Australia, and v) North America. Contemporary labor migration to India can be classified into three sectors: i) public sectors including Indian Army and Police; ii) private sector such as, industry, construction work, agriculture, private security and service sector; and iii) undesirable sector such as, commercial sex work – both brothel and non-brothel based.

Data from the DoLEP shows that there are at least one million Nepali people working abroad who departed from Nepal's airport, while more or less equal number of people is expected to have gone in different countries via India. In the year 2007, more than two hundred thousands people migrated for foreign employment from Nepal. They originated from all 75 districts and, out of which, 10 districts accounted for 40 per cent to the total number; and 9 out of these 10 districts are in the Central and the Eastern Tarai region.

Excluding India, the Gulf region has been emerging as the dominant region for Nepali labor migration (64% of the total labor migrants), followed by South East Asia region (29%). The findings indicate that there is gender dimension of foreign labor migration as well as gender specific risk of migration. While men's mobility has long been accepted, women's mobility has been a matter of public concern. Institutions like the family, the community and the State constrain women's mobility while this may not be the case for men. In early 2006, females accounted for only 9 per cent to the total labor migrants with the highest proportion in Gulf countries (52%), followed by South and South East Asia (26%) and Europe and Australia (12%). However, the ratio of female to male laborers has increased from 2 per cent in 2001 to 8 per cent in 2006, indicating that female migration has been increasing.

Trafficking in case of foreign labor migration should not be viewed as a static phenomenon. Elements of trafficking have been evident in the different life-cycle of migration such as, pre-departure, during departure, working abroad and returning home. Therefore, the workers need protection against exploitation, deceitful and abuse in each process. The GoN has ratified a number of international instruments regarding the promotion and protection of human rights, however; it has yet to ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990* which applies during the entire process of migration from pre-departure to departure, transit, entire period of stay, and return to the State of origin. The Convention guarantees non-discrimination with respect to rights; human rights of all workers and members of their families; and promotion of sound, equitable, human and lawful conditions in connection with international migration of workers and members of their families.

The GoN has enacted *Foreign Employment Act 2064* in 2007 in order to regulate the process of foreign employment. The Act greatly protects the rights of workers as well as the professionals. The main strengths of the Act include: i) provision of sending workers by the GoN; ii) formation of a high level committee to manage the procedure of sending workers to a foreign country; iii) responsibility of the GoN to rescue and repatriate the workers if needed; iv) provision of non-discrimination to women in relation to foreign employment; v) compulsory provision of payment receipts to the workers; vi) provision of use of domestic airport to send the workers; vii) establishment of Foreign Employment Welfare Fund; viii) imposition of punishment in case of violation of the Act; and ix) extraterritorial jurisdiction. The main constraints of the Act implicate the followings: i) no government grants to the Foreign Employment Welfare Fund; ii) no special provision of security to victims and witnesses; and iii) no provision of additional punishment to the offenders in case of violence against women in relation to foreign employment.

The DoLEP is mandated to provide the justice to the workers in case of violation of the Act. Accordingly, for the period from July 2006 to

November 15, 2007, a total of 505 and 436 complaints were filed against brokers (*Dalals*) and foreign employment agencies respectively at DoLEP. Out of the cases against the brokers, 122 were filed in the Kathmandu District Court.

Monitoring on Commitments and Initiatives to Combat Trafficking

In order to combat trafficking and for the protection of human rights of women and children, Nepal has made commitments in the number of international conferences like World Summit on Children, 1990, World Conference on Human Rights, 1993, International Conference on Population and Development (ICPD), 1994, World Summit for Social Development, 1995, Fourth World Conference on Women, 1995, and World Congress on Commercial Sexual Exploitation of Children, 1996. On the basis of these international commitments, Nepal has also domesticated international concerns and standards into national laws and policies. However, in terms of progress on anti-trafficking efforts, Nepal has remained in Tire 2 (as per TIP report) country since 2004.

At the domestic level, Nepal has been explicitly prioritizing the concerns of women and children in National Development Plans, especially since the Sixth Plan (1980-85). The GoN has formulated the National Plan of Action (NPA) against Trafficking of Women and Children and Labor Exploitation, 1998 (2001 revised) to fight against trafficking. The NPA against Trafficking of Women and Children and Labor Exploitation has identified eight major areas of interventions: i) policy, research and institutional development; ii) legislation and enforcement; iii) awareness creation, advocacy, networking and social mobilization; iv) health and education; v) income and employment generation; vi) rescue and reintegration; vii) trans-border, regional and international issues; and viii) monitoring and evaluation. Similarly, it has identified four cross-cutting issues: i) sustainability, ii) gender, iii) human rights based approach, and iv) child participation.

The GoN has also formulated the Ten Years NPA for Children (2004/05-2014/15) and the National Master Plan on Child Labor

(2004-2014) for the protection and promotion of child rights. The NPA for Children (2004/05–2014/15) has provided policies under four broad sub-headings as: i) general, ii) health, iii) protecting children against abuse, exploitation and violence, and iv) combating HIV/AIDS. In order to implement its policies, the NPA has outlined seven strategies as: i) formulation and necessary amendment of laws; ii) development of network and promotion of children’s participation; iii) coordination, collaboration and integration in development; iv) decentralization and community mobilization; v) reach to the unreached; vi) transparency; and vii) capacity development of concerned stakeholders and human resources.

The National Master Plan on Child Labor (2004-2014) has defined trafficking of children as the worst forms of child labor. It has identified six intervention areas to combat the worst forms of child labor in particular and child labor in general. The intervention areas are : i) awareness and sensitization, ii) education and training, iii) creating economic opportunities, iv) legislation and enforcement, v) gender equality and child labor, and vi) child labor monitoring and tracking.

Accordingly, several organizations have been implementing anti-trafficking activities. The MoWCSW is the focal ministry for dealing with trafficking in women and children from policy perspective. The Ministry has formed a National Task Force (NTF) against Trafficking of Women and Children comprised of senior officials of concerned ministries, including representatives from concerned NGOs and INGOs, UNICEF and ILO. The Ministry has also formed an 18-member District Task Force (DTF) comprised of representatives from various GOs and NGOs in 26 districts.

Findings of this Report indicate that effectiveness of the DTFs in combating trafficking has yet to be made satisfactory. This is mainly because of i) limited budget allocation (the annual budget per DTF was NRs. 20,000 till 2006/07 and now it is NRs. 40,000); ii) frequent transfer of Women Development Officer (WDO) – who is the secretary of the DTF; iii) lack of concrete instruction from the ministry; and iv) inclusion of irrelevant and large number of members in the DTF

and lack of representation from Regional or Contact offices of NHRC, human rights organizations, NGO networks, para-legal committees, women's pressure groups, and *Dalit, Janajati* and *Madheshi* organizations.

The GoN has given the priority to women empowerment programs in its *Three Year Interim Plan (2006/07-2009/10)*. A total of NRs. 28 billions (4.77 % of the total estimated investment in the Plan Period) is allocated in women development, empowerment and gender mainstreaming programs. Out of the total, NRs. 1587.4 millions is allocated under the MoWCSW. Similarly, the Plan has allocated Rs. 108.1 millions in child related programs for the plan period.

The Ministry has various women empowerment programs including targeted anti-trafficking programs. It has established a rescue/emergency fund in Kathmandu, Jhapa, Parsa, Rupandehi and Banke districts. Similarly, the Department of Women Development (DWD) has provided the fund to establish rehabilitation centers in Kathmandu, Sindhupalchowk and Kailali districts in 2007 for trafficking survivors..In addition, the GoN has established the National Women Commission (NWC) and the Central Child Welfare Board (CCWB) in order to strengthen the human rights of women and children in Nepal.

A number of line ministries and departments have also contributed to the prevention and control of trafficking through various programs, such as, scholarship program to *Dalit* students and girls (Ministry of Education and Sports-MoES), HIV/AIDS control program (Ministry of Population and Health-MoPH), *Ganesha Man Singh* Peace Campaign (Ministry of Home Affairs-MoHA), Decentralized Action for Children and Women (DACAW) program (Ministry of Local Development- MoLD, DWD and UNICEF-Nepal), land reform and rehabilitation program for freed *Kamaiyas* (Ministry of Land Reform and Management - MoLRM), and Poverty Reduction Strategic Planning (PRSP) programs of Poverty Alleviation Fund (PAF).

Similarly, during 2006 and 2007, the ONRT has conducted several advocacy programs; disseminated the National Report 2005;

conducted a training to the NHRC, GOs and NGOs personnel on safe-migration, trafficking and human rights; conducted research studies related to trafficking; appointed focal persons for trafficking in the NHRC regional offices; undertook field visits; and carried out consultation meetings with different GOs and NGOs. The ONRT has also been active in establishing the international relations.

In addition, a number of NGOs are working against trafficking in Nepal as leading partners in anti-trafficking efforts. Two national level anti-trafficking networks (AATWIN and NNAGT) and several NGOs (Maiti Nepal, ABC Nepal, CWIN, Paurakhi, WOREC, Samanata, Saathi, Stri Shakti, Peace Rehabilitation Center, FWLD, LACC, and Didi Bahini, etc.) are running their programs at the national as well as the community levels. The UN agencies (ILO, UNIFEM and UNICEF), inter-governmental organization (IOM), bilateral organization (USAID) and INGOs (the Asia Foundation, PLAN Nepal, the Lutheran World Federation-Nepal, Save the Children-USA and Save the Children-Norway, UNODC etc.) have been supporting in anti-trafficking efforts.

These organizations provide a wide range of services that focus on i) prevention; ii) interception/surveillance in border check-points; iii) rescue and repatriation; iv) psychosocial counseling, rehabilitation and reintegration, and v) advocacy, lobbying, workshop, training and research.

Several NGOs have intercepted large numbers of children and women and provided them rehabilitation services for the last 10 to 15 years. Maiti Nepal alone has intercepted and rehabilitated/reintegrated a total of 10,960 women and 8,755 children during the period of 1997-2007. ABC Nepal, Morang Branch Office alone handled 692 cases related to violence against women and children from 2001/02 to 2006/07 and it filed 56 cases in the Morang District Court in favor of survivors. Similarly, Shakti Samuha, an NGO formed by trafficking survivors has been working especially on rehabilitation of the trafficking survivors. CWIN has been working for the protection and promotion of child rights in the communities and schools and also provides shelter

to the children in difficult circumstances. CWIN along with other organizations such as Maiti Nepal, ABC Nepal, WOREC, Peace Rehabilitation Center, Stri Shakti and Watch coordinated to bring the 130 rescued Nepali girls from different red light areas in Mumbai, India back to Nepal in 1996. In fact, this incident contributed to sensitize and influence the policy level to formulate the policies and plans of action against trafficking in women and children in Nepal.

At the district level, several NGOs are running their programs to combat trafficking in women and children. The ONRT workshops in Butwal and Biratanagar found the following organizations working in 7 districts:

Districts	NGOs
Nawalparasi	ABC Nepal, Maiti Nepal and District Para-legal Committees
Rupandehi	ABC Nepal, Maiti Nepal, Serve Nepal, JIT Nepal, District Para-legal Committee, Ekta Kendra Rupandehi, Baal Kalyan Home, Baal Samparka Kendra
Kapilbastu	Saathi, Para-legal, Pairabi Manch, Women Pressure Group, Ookalta Manch Nepal and INSEC
Gulmi	Locatantrik Mahila Sanjal, Mahila Aadhikar Tatha Chetana Aaviyan Kendra, INSEC, Hamro Phalame Mutthi
Palpa	Maiti Nepal, WOREC and INSEC
Arghakanchi	Janachetana Sarokar Manch, INSEC, WOREC, Hamro Phalame Mutthi, Hami Sakchhaun Aviyan.
Morang	ABC Nepal, WOREC, Maiti Nepal, INSEC, Women Security Pressure Group, Legal Assistant Project, District Bar Association, CWIN, Women's Federation, CeLLRD, Plan Nepal, Women Groups in the VDCs, Madheshi Women Advocacy Forum, LACC, Nil Hira and Nari Bikash

At the workshops in Butwal and Biratnagar, the participating NGOs personnel expressed their concerns as well as the challenges faced in the implementation of their programs at the community level. The key concerns were funding, accountability and transparency, and sustainability of the programs including networking and cooperation with GOs.

The Concern on the 4Rs (Rescue, Repatriation, Rehabilitation and Reintegration)

Protection of survivors and victims is one of the three major components of anti-trafficking programs. A comprehensive policy on protection, including rescue, repatriation, rehabilitation and reintegration is still lacking. It has resulted difficulty to protect the best interest of the survivors as well as to maintain the minimum standard of care and support. Based on the research (using the field data), the Report deals with the need of a comprehensive protection policy based on the following principles: i) state's accountability and ownership, and involvement of civil society; ii) participation of survivors; iii) human rights based approach; iv) interdisciplinary and cross-sectoral approach; and v) sustainability and continuity.

Judicial Responses to Trafficking

On the legal side of combating trafficking, Nepal has ratified a number of international anti-slavery and anti-trafficking conventions, human rights treaties and labor conventions, including i) Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others, 1949; ii) Convention on the Rights of Child, 1989; iii) Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000 Supplementing the Convention on Transnational Crime, 2000; iv) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000; v) SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution 2002; (vi) ILO Convention, 1999 (No. 182), Elimination of Worst Forms of Child Labor; and vi) ILO Convention 1930 (No. 29), Forced Labor.

Similarly, the Interim Legislature Parliament has provided its approval for the ratification of the following conventions and optional protocols relevant to anti-trafficking:

- Optional Protocol to the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) on December 2006;
- Two Optional Protocols of the CRC, namely, on the Sale of Children, Child Prostitution and Child Pornography and on the Involvement of Children in Armed Conflict, 2000 on 19 September 2006;
- SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002 on 5 September; and
- SAARC Convention on Regional Provisions on Child Welfare 2002, on 5 September 2006.

At the domestic level, Nepal has made noticeable progress during the years of 2006 and 2007. The *Interim Constitution of Nepal, 2063* (2007) protects the interest of children and women by conferring certain fundamental rights and imposing special duties on the state in the form of the ‘directive principles and policies of the state’.

The GoN has enacted *Act to Amending Some Nepal Acts, 2063* (2006) on November 3, 2006 by repealing the gender discrimination in several laws; *National Women Commission (NWC) Act, 2063* (2006) on December 18, 2006 by making the NWC as a statutory body; and *Human Trafficking (Control) Act, 2064* (2007) on July 20, 2007 to control sale and trafficking of human being and protect and rehabilitate the survivors. The GoN is also in the process of amending *Children’s Act, 1992* and formulation of laws on ‘Controlling Sexual Harassment against Women’ and ‘Controlling and Punishing Domestic Violence’. The GoN is also formulating the policy on ‘Controlling Sexual Harassment against Women in Workplace (Zero Tolerance)’.

Unlike the earlier acts related to controlling human trafficking such as, *Sale of Human Being in Muluki Ain (Country Code), 2020* (1963) and *Human Trafficking (Control) Act, 2043* (1986), current *Human*

Trafficking (Control) Act, 2064 (2007) is the right-based law. The Act i) includes a wider definition of trafficking - encompassing sexual exploitation, forced labor and other forms of trafficking; ii) establishes extraterritorial jurisdiction in its scope; iii) protects the rights to privacy and security of the survivors, informants and witnesses; iv) considers trafficking as a stringent crime; v) imposes more terms of imprisonment/penalty to the child traffickers over the adult's traffickers; and vi) makes provision of rescue, repatriation, rehabilitation and reintegration of trafficking survivors. Despite these strengths, it also has some weaknesses. They are: i) it conflates voluntary engagement in sex work with trafficking in human beings; ii) it invests the police with sweeping powers without any controlling mechanism; and iii) no time duration is provisioned to finalize the trafficking cases by the courts.

Ministry of Home Affairs (MoHA) and its offices namely, Nepal Police – (Women and Children Service Center (WCSC) and Community Police), Department of Immigration and Interpol Nepal are the special law enforcement agencies against trafficking in women and children. Similarly, the Office of the Attorney General and its subsequent offices are the public prosecutors and the Courts of Nepal are the adjudicating agencies.

As of December 2007, there were 25 WCSCs in 17 districts and the Nepal Police is planning to expand WCSCs in 37 districts in near future. The reported number of cases of trafficking in the WCSCs from 1999/2000 to 2006/07 was 644 and the reported number of trafficking survivors from 2003/04 to 2006/07 was 472. However, the effectiveness of the WCSCs in combating trafficking is limited due to the lack of clear instruction, lack of trained women police, lack of physical facilities and financial support. There are 179 Community Police Units in 72 districts. The Units, among others, aim to fight against trafficking in women and children with the mobilization of community people.

Department of Immigration is another important government mechanism for protecting the trafficking survivors and prosecuting the traffickers. The *Immigration Act, 2049* (1991) clearly states that

the persons involved in issuing fraudulent passports and visas or carrying them to travel abroad shall be imprisoned up to 5 years or fined NRs. 50,000/- or both. In 2006, the Department of Immigration filed cases in the Kathmandu District Court against 82 males and 18 females on the charge of violation of the Immigration Act, 2049. In 2007 (as of third week of November 2007), the comparable figures were 49 for males and 13 for females.

The Interpol is an important inter-governmental mechanism to fight against trafficking in persons. Combating trafficking in human being is one of the six priority areas of the Interpol. The Interpol Nepal Office in Kathmandu receives complaints of missing persons via District Police Offices or WCSCs. Currently, the Office receives 3 to 4 complaints of missing persons monthly. It has also repatriated persons in difficult circumstances from foreign countries.

There has been a greater role of courts and judiciary to protect the human rights and hence, have a considerable role in providing justice to the trafficking survivors and prosecution to the traffickers. From the information of the Supreme Court's judgment and records of trafficking cases in the Supreme Court and the Office of the Attorney General, the following conclusions have been drawn:

- i) number of cases filed in the courts is low as compared to the said magnitude of trafficking (On the average, 166 trafficking cases filed in the district courts each year from 2001/02 to 2005/06);
- ii) conviction rates of trafficking cases are low in all layered courts (For 5 years period - from 2001/02 to 2005/06-, the average rates were 61% in the district courts, 40.5% in the appellate courts and 50% in the Supreme Court);
- iii) pending rates are high (For 5 years period -from 2001/02 to 2005/06- average rates were 56% in the district courts, 51% in the appellate courts and 81% in the Supreme Court); and
- iv) the courts have made few references of international human rights treaties and conventions in their decisions related to trafficking of women and children.

Role of Media in Combating Trafficking

Role of the media in combating trafficking has been widely recognized. Nepal has witnessed a booming of private publication houses, FM radio stations and television stations, especially after 1990. Reviewing the reporting on trafficking in persons in the print media in 2006, it is found (ONRT research 2007) that a total of 184 news/views were covered in 9 leading national daily newspapers. The highest number of news/views covered was in the Gorkhapatra, followed by the Kanitpur, the Rajdhani, the Nepal Samacharpatra, the Rising Nepal, the Kathmandu Post, the Annapurna Post, the Himalayan Times (English) and the Himalayan Times (Nepali).

The newspapers covered different themes like anti-trafficking activities/awareness, prosecution, rescue, interception, exploitation at destination, survivor's resistance, rehabilitation and weaknesses of police investigation processes. The numbers of news were considerable for anti-trafficking activities and prosecution (48). Many electronic media have been broadcasting anti-trafficking programs as their regular programs.

Major challenges of the media in reporting of anti-trafficking activities are found as lack of gender desk in many media houses; event based news rather than regular materials on anti-trafficking activities; lack of archiving of programs especially in the electronic media; and few numbers of trained editors, producers and journalists in human rights and gender issues.

In conclusion, in the year of 2006/07, some achievements have been made in combating trafficking, especially in areas of amending and enacting legislations. However, there are several challenges to tackle the problem effectively. The NPA of Trafficking for Sexual and Labor Exploitation yet requires to be revised in the changing context of marginalization of women and children. Further, the most challenging aspect is the effective implementation of policies and programs to approach the most vulnerable communities and trafficking survivors. Therefore, the strategies for combating trafficking should aim at i) empowering the vulnerable communities and trafficking survivors;

ii) mobilizing the key stakeholders like GOs, courts, embassies/diplomatic missions, I/NGOs, CBOs, media, women's groups, and private sectors; iv) developing an institutionalized reporting system and mechanism; v) sensitizing the law enforcement agencies; and vi) prioritizing the trafficking issue as a national agenda.

The Way Forward

Drawing on the findings of this Report and the recommendations forwarded in the National Report 2005, it is recommended that the future areas of interventions on trafficking should be in three broad areas, namely, i) prevention, ii) protection and iii) prosecution.

Prevention is defined as all the strategic interventions required to protect women and children from the risk of trafficking. Thus, it requires addressing structural as well as immediate causes of trafficking. *Protection* covers 4Rs - rescue, repatriation, rehabilitation and reintegration. *Prosecution* includes all the strategic interventions that aim at prosecuting the traffickers to ensure justice to the trafficking survivors.

For each of the broad area, a consolidated matrix is presented by i) the areas of interventions required; ii) lead ministry/department to tackle the problem; iii) other responsible organizations to effectively carry out the programs; iv) recommendation made in the 2005 National Report or new concern; and iv) further remarks and comments.